

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268

In the Matter of:

Evansdale, Iowa 50707
Post Office State ZIP Code

Docket No.: A2011-103

Craig Chilton, Petitioner

_____PARTICIPANT STATEMENT_____

1. Petitioner is appealing the Postal Service's Final Determination concerning the Evansdale, Iowa post office. The Final Determination was publicly posted on September 2, 2011. But in the case of these postal patrons, only to a very limited audience: 133 P.O. boxholders.

2. In accordance with applicable law, 29 USC Sec. 404(d)(5), the Petitioner requests the Postal Regulatory Commission to review the Postal Service's determination on the basis of the record before the Postal Service in the making of the determination.

3. Petitioner: Please set out below the reasons why you believe the Postal Service's Final Determination should be reversed and returned to the Postal Service for further reconsideration. (See pages 1-3 of the Instructions for an outline of the kinds of reasons the law requires us to consider.) Please be as specific as possible. Please continue on additional paper if you need more space and attach the additional pages to this form.

[Remainder of Petitioner's Statement follows as an Attachment, starting as Page 2 of 10.]

Participant Statement by Craig Chilton, Evansdale, Iowa 50707

Opening Statement

Per Page 1, Item A of the Instructions for making this Petition via PRC Form 61 (based upon 39 USC 404 (d)(5)(A,B,C) petitioners are advised to ensure that facts are presented that demonstrate that the Final Determination of the Postal Service was “arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law,” and/or per Item (B) “without observance of procedure required by law,” and/or per Item (C) “unsupported by substantial evidence on the record.”

It is my intention to demonstrate and prove beyond any shadow of a doubt that in its determination to close the Evansdale, Iowa Post Office, the Postal Service was in clear violation of several aspects of both the letter and the spirit of the law, per items (A) and (B) above, and indeed, with respect to Item (C), it even provided clear proof of a reason for why the Evansdale Post office should not be closed. That last point is so significant, I am presenting it below as my first reason for reversing the Postal Service’s (hereinafter “USPS”) Final Determination to close this post office.

1. The Evansdale, Iowa Post Office is a PROFITABLE Entity for the U.S. Postal Service

Except for the fact that the USPS has been claiming that it needs to make major cutbacks on expenses for various reasons, this issue of the closing or consolidation of up to 3,653 post offices either would not be under consideration, or else it would involve far fewer post offices. In light of its desire to save money, I submit that any decision of the part of the USPS that clearly would result in the loss of sales and revenue for the USPS would be irrational and ill-conceived at best, and totally counterproductive to all concerned at worst. It makes no sense to dispose of a profitable entity if the stated objective for doing so is to save money.

I refer the PRC to the Final Administrative Record that was submitted by the USPS on June 20, 2011, in which the most recent three years of activity of the Evansdale Post Office was reviewed

and documented in detail, and I call attention to the page entitled, “I. Responsiveness to Community Postal Needs,” which appears on page 274 of my .pdf printed-out copy. On that page is reported the following Office Receipts:

\$270,763 in FY 2008

\$244,212 in FY 2009

\$253,050 in FY 2010.

So despite the continuing growth and power of the Internet during those years, I call your attention to the fact that what we see above is a fluctuation in revenue, and not a steady decline. Because while revenue declined from FY 2008-09, it increased by a substantial \$8,838 from FY 2009 to FY 2010. And the fluctuations are further rendered moot by the fact that all of those figures proved that the Evansdale Post Office is profitable.

Consideration must be made to the actual costs of continuing the functioning of the Evansdale Post Office. There are three significant categories: Rental payments on the lease, the salary of the USPS clerk on duty (usually one, and it is two during the busiest holiday seasons), and the utilities.

Taken in order, the USPS just negotiated and signed a 5-year-lease for the Evansdale Post Office in January, 2011, which runs until January 1, 2016. Whether or not the post office is reopened, a financial obligation to the lessor for that 5-year period still must be met. So closure of the post office would be detrimental from that standpoint.

The clerks (usually just one) continue to be USPS employees whether or not they are running the Evansdale Post Office, so no money is being saved by the USPS from that standpoint.

The only significant costs saved by the USPS are utility payments on this facility. And an entire year’s worth of those can be offset by the revenues realized by the Evansdale Post Office in between 1 and 5 days, depending upon level of customer activity.

Unless some very significant additional cost(s) of running the Evansdale Post Office can be substantiated beyond those I have just enumerated, it would appear that the Evansdale Post Office is not merely a profitable facility, but additionally should be regarded by the USPS as an asset that they should never have considered closing. Shutting it down is detrimental to many thousands of people and dozens of businesses, to no good purpose. Given the above facts, should the PRC regard the USPS' determination to close it be regarded as "arbitrary?" Or "capricious?" Or "an abuse of discretion?" I submit that all three charges are applicable here.

2. The Evansdale Post Office Serves a Larger Community than its Name Implies

The city of Evansdale, Iowa has about 5,000 residents, and that alone would make it sizeable enough to warrant its continued operation. However, we also need to consider that this city borders the larger city of Waterloo, Iowa, and thus, the Evansdale Post Office serves perhaps an additional 5,000 or more Waterloo residents who live closer to it than they do to the main post office in downtown Waterloo. The Waterloo line is only one mile from the Evansdale Post Office, and the Waterloo Post Office lies 2-1/2 miles beyond that. And besides that, many people who patronize the Evansdale Post Office actually live closer to the Waterloo one – but go to Evansdale for the convenience of not having to wait as long (on average) in line, and to enjoy the convenience of shopping at the Fareway supermarket that's only a block from the Evansdale Post Office.

So the continued closure of the Evansdale Post Office would detrimentally impact around 10,000 residents, and perhaps more, including many local businesses and hundreds of seniors.

3. Improper/Unlawful, Insufficient Closing Notification was Made to the Community

The USPS has repeatedly claimed that it is exempt from the notification rules that clearly are stated in multiple locations in the regulations pertaining to post office closings and consolidations,

if the facility in question is designated as being a “branch.” And the PRC has often accepted that.

However, my question is this: Why should the Americans that the USPS serves (and the word, “Service” in its name is noteworthy here) be victimized by that which cannot help but be a deliberate and capricious excuse on the part of the USPS that is purposely employed to marginalize and almost eliminate the appeals-process capability of the populace that is served by the facility slated for closure? The USPS already knows the addresses, and most of the names, of all of the people who live within a 2-mile radius of the Evansdale Post Office. So it is not too much to ask that the USPS have the courtesy and decency to adhere to the very clear, plain-English, specifications for such notifications that are spelled out in many regulations that I am citing below in this regard. Which even are made quite clear in the Instructions for Participants for filing PRC Form 61.

In those instructions, the necessity for that notification to patrons of the facility slated for closure even are stressed by the use of italics in that document. In the Instructions, at the end of the second paragraph entitled, PROCEDURE, is this sentence – presented exactly as shown here, italics and all:

The Postal Service shall take no action to close or consolidate a post office *until sixty (60) days after its written determination is made available to persons served by such post office.*

If the USPS believes that it can provide inadequate notification to 10,000 people who are faced with closure of a facility that has been an important part of their lives for many decades on the grounds that the facility is a “branch,” in the absence of any clear authorization to do so in the regulations, that is clearly a violation at the spirit of the law, even if not technically the letter of the law. And that is no way for it to treat those served by the Evansdale Post Office or any of the countless of thousands of other Americans across the nation served by Post Office “branches.” To all of those people, the term, “branch” is meaningless. *Their* concern is with the possible loss of their *post offices*.

The USPS failed in two ways to treat those served by this post office fairly:

- (1) It failed to provide 60 days notice, in writing, to all of the persons that it serves. Which reasonably can be considered to be the 10,000 or so people (as well as businesses) located within a 2-mile radius of this facility. The written notification was provided on September 2, 2011 – only 49 days prior to the declared closing date of October 21. To see how profound that violation was, see 39 USC 404 (d)(3).
- (2) It provided the written notification only to the 133 current boxholders at the facility, and left the remainder of the community unaware of the decision, the date, and of their right to appeal the decision. See 39 USC 404 (d)(4)

Per Title 39 CFR 3001.110 (Applicability):

Pursuant to section 404(b) of the Act any decision to close or consolidate a post office must be preceded by 60 days notice to persons served by such post office, the opportunity for such persons to present their views, and a written determination based upon consideration of each of the factors listed in section 404(b)(2) of the Act. This notice must include a provision stating that, pursuant to Pub. L. 94-421, a final Postal Service determination to close or consolidate a post office may be appealed to the Postal Regulatory Commission at 901 New York Avenue NW., Suite 200, Washington, DC 20268-0001, within 30 days after the issuance of a written determination by the Postal Service.

Except for the 133 boxholders, none of the persons served by the Evansdale Post Office received the above-required written notification from the USPS. Ever.

As a result, nearly 10,000 people learned of the determination to close the Evansdale Post Office only after a headline story to that effect was run in the *Waterloo Courier*. (By the *Courier*, not from the USPS). On September 29, 2011. And that provided the people with only a scant 2 days to file appeals to the PRC. Most of whom had not a clue as to how to do that! As a result, only the Mayor of Evansdale, Chad Deutsch, and I, got appeals in prior to the October 1st postmark deadline.

Whether or not there is any verbiage in any of the regulations that the USPS could employ to extricate itself from the requirement to provide a 60-day minimum notification in writing of a determined closing date for a post office on the seemingly-specious basis of its being a “branch,” there can be no doubt that such notification to all living within 2 miles of it would have been the right thing to do. The American people already have more than enough problems being caused to them by big banks, mega-corporations that pay no taxes, and a Congress that 91% of the people no longer respect -- without having to face being adversely impacted by possible dishonesty, and being treated like dirt, by an agency that it has always trusted and respected the most.

The only possible exclusion I’ve been able to find in the regulations that the USPS could employ in order to subvert the best interests of the people with respect to procedures pertaining to formal closure notifications is one that states that exceptions could be made for facilities that were not being staffed by USPS employees. See 39 CFR 241.3 (a)(C)(ii). However, that is inapplicable to Evansdale, where the clerk was a USPS employee.

4. Even Early in the Process, the Rules were Blatantly Disregarded by the USPS.

Here is another example of where the procedures were pursued in a slipshod manner, or regulations were purposely ignored or disregarded by the USPS in an attempt to curtail public input from persons served by the Evansdale Post Office to the greatest degree they could have hoped to get away with.

Reference: LIBRARY REFERENCE USPS-LR-N2011-1/1
USPS HANDBOOK PO-101
POSTAL SERVICE-OPERATED RETAIL FACILITIES
DISCONTINUANCE GUIDE

242.12 Questionnaire

The customer questionnaire containing the name of the retail facility under study and the customer’s address should be mailed to all PO Box and carrier delivery customers in the ZIP Code area of the facility under study. The questionnaire should also be

mailed to all customers in other ZIP Codes to whom the retail facility under study provides allied delivery services, such as retrieval of held mail. The mailing should include the cover letter, customer questionnaire, copy of the Summary of Postal Service Retail Facility Change Regulations, and a pre-addressed postage paid envelope for return of the questionnaire.

242.11 Cover Letter

A cover letter must be included online or enclosed with each printed questionnaire that clearly explains the discontinuance process and why the Postal Service is investigating the possible discontinuance of a facility. The cover letter should include information about the distance to nearby retail facilities, their hours, alternative access channels, and how customers can request curbside delivery. The cover letter should also notify the customer of any possible change in delivery and retail services, and any changes to PO Box fees.

The above-cited materials were provided only at the Community Meeting held in the Amvets Hall in Evansdale in April, 2011 as handouts to those who attended, and they were made available over the counter at the Evansdale Post Office by the clerk. And to the facility's 133 boxholders. But not to the rest of those served by the facility, as prescribed (and mandated?) by 242.12, above.

I now wish to call your attention again to 39 USC Sec. 404.

As you read references that I provide as needed in the rest of this document, I respectfully ask the Commission to please keep in mind the fact that I am not a lawyer, nor do I in any way seek to present myself as having those skills. Thus, in citing certain regulations, I may mis-cite some, in some manner, but it is my hope that if such errors on my part are made, that I will have provided you with sufficient direction to find the referenced material.

In 404 (d)(2) it says: "The Postal Service, in making a determination to close or consolidate a post office, shall consider the effect of such closing or consolidation on the community served...."

I submit that the effect upon the community served by the closing of the Evansdale Post Office (Evansdale, Elk Run, and the neighboring eastern portions of Waterloo) will be a profoundly

negative one. Even though most Americans cannot really appreciate the deprivations undergone by people in third-world nations, a city's losing its post office comes about as close to third-world status as they're ever likely to see in this country.. And causing such a facility to close down when it is profitable to all concerned, including the USPS, is unconscionable. And completely irrational.

In 404(d)(2)(A)(iv), it says that "the Postal Service ... shall consider the economic savings to the postal service resulting from such closing."

That is a criterion for justifying a closing – and per that criterion, in the case of Evansdale, the post office should not be closed, because, as I showed earlier, it makes money for the USPS!

5. The "Delivery" vs. "Retail" Patrons Arguments in a USPS Response Brief are Unrealistic

On June 30, 2011, in PRC Docket No. A2011-18, a Response of the USPS in the matter of the suspension of the Valley Falls Station, Cumberland, RI 02864 included a distinction being made between the retail customers who come into the facility to do business (including the station's boxholders), and the customers to whom mail is delivered outside of the facility. And the claim was made by the USPS that its notification procedures were adequate because all who actually go into the facility would have received the USPS-determined closure date. That's a weak argument on the face of it because countless postal patrons go into post offices without paying attention to any other paperwork that may be in sight, and simply attend to their own business at hand; *i.e.*, whatever the purpose of the visit may be. But it gets far worse than that when one realizes that even though the Questionnaires discussed in the previous portion of this appeal were available over the counter, the subsequent closure notifications were not. There's no way to know what percentage of walk-in customers learned about the scheduled closing by happening to visit with the clerk about it, but my bet would be that the figure would be 'way down in the single digits. There is no doubt in my mind that the USPS made a deliberate and concerted effort to keep this closing as low-profile as they possibly could. And thereby subject themselves to as minimal as possible feedback and appeals from the 10,000 or so people that would be impacted by it, until it was too late for them to respond.

6. Concluding Statement

After reviewing many of the relevant rules and regulations, as I have cited them in this Participant's Statement, and several of the more relevant PRC Dockets pertaining to closings of postal facilities, it is my considered opinion, based upon the best understanding that I could have without being a lawyer, that the USPS has frequently played fast and loose with the regulations, and that in its attempts to justify that, it has engaged often in a practice that I, as a former technical writer for the R&D Division of a defense plant, have called "weasel-wording." In such a position, one sees a lot of that, and if he's honest, he tries to avoid employing it himself.

The USPS has displayed blatant disregard for the well-being of the population that has so well and efficiently been served by the Evansdale Post Office, and when it removed all of the equipment and furnishings from that facility within a 2-day period after the 2:00 p.m. final closing on October 21, it left a stunned city in its wake. The word I've been hearing the most from my fellow residents in that aftermath, is "surreal."

Evansdale never deserved to lose its profitable post office, and it was treated very brusquely, unfairly, and deceptively by the USPS throughout the entire process. This is a situation that needs to be rectified and reversed as quickly as humanly possible. We are almost at the start of the holiday season, and during that time, even when two clerks are on duty, it often is necessary to spend a few minutes waiting in line at this busy and prosperous post office.

Let's treat the people of this city like the Americans they are, and restore for them this most American and respected of institutions and services, at the level they have accessed and deserved so well.

Thank you.